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through the California Highway Patrol, Blackwood,
9 *Kee, and Rubalcava*

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 EASTERN DIVISION
13

14 **L.C., et al.,**

15 Plaintiffs,

16 v.

17 **STATE OF CALIFORNIA, et al.,**

18 Defendants.
19
20

No. 5:22-cv-00949 KK (SHKx)

**STATEMENT OF
UNCONTROVERTED FACTS**

Date: March 20, 2025
Time: 9:30 a.m.
Courtroom: 3 (3rd Floor)
Judge: Hon. Kenly Kiya Kato
Trial Date: June 2, 2025
Action Filed: June 7, 2022

21 Defendants State of California, by and through the California Highway Patrol
22 (CHP), Michael Blackwood, Isaiah Kee, and Bernardo Rubalcava (State
23 Defendants) submit the following uncontroverted facts in support of their motion
24 for summary judgment.

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State Defendants' Uncontroverted Facts and Supporting Evidence	Plaintiffs' Response to Cited Fact and Supporting Evidence
<p>1. In February 2021, Defendant Michael Blackwood was an officer with the California Highway Patrol (CHP), assigned to patrol. <i>Evidence:</i> Blackwood Dep. 5:25-6:10, Ex. P.¹</p>	
<p>2. In February 2021, Defendant Isaiah Kee was a Sergeant with the CHP, assigned to patrol. <i>Evidence:</i> Kee Dep. 13:17-14:5, Ex. O.</p>	
<p>3. In February 2021, Defendant Bernardo Rubalcava was a CHP officer, assigned to patrol. <i>Evidence:</i> Rubalcava Dep. 9:25-10:20, 66:4-8, Ex. Q.</p>	
<p>4. On February 16, 2021, at approximately 5:45 p.m., CHP officers, including Kee, were investigating a car-to-car shooting, which occurred on Interstate 15. The suspect, later identified as decedent Hector Puga, drove along the passenger side of the victim's vehicle, and fired one shot at the victim and struck the victim's front passenger door. Puga fled in his vehicle after shooting at the victim. The victim described Puga as a Hispanic male, heavy set, bald, and Puga's vehicle as a white Ford Expedition, with large black rims, and a funeral procession sticker on the back window. <i>Evidence:</i> Arrest-Investigation Report 1-12, Ex. L; Kee Dep. 75:18-77:24, Ex. O.</p>	

¹ All exhibits referenced in Defendants' uncontroverted facts are attached to the accompanying Declaration of Diana Esquivel.

State Defendants' Uncontroverted Facts and Supporting Evidence	Plaintiffs' Response to Cited Fact and Supporting Evidence
<p>5. Blackwood and Rubalcava were briefed about the freeway shooting at the beginning of their work shifts. <i>Evidence:</i> Kee Dep. 75:18-77:24, Ex. O; Blackwood Dep. 51:3-20, Ex. P; Rubalcava Dep. 77:14-78:15, Ex. R.</p>	
<p>6. At approximately 1:30 a.m. on February 17, 2021, Blackwood and Rubalcava, who were riding in the same CHP patrol vehicle, observed a white Ford Expedition that matched the description of the vehicle involved in the earlier freeway shooting, and initiated a traffic stop. <i>Evidence:</i> Blackwood Dep. 51:3-10, Ex. P; Rubalcava Dep. 77:14-17, Ex. Q; Blackwood MVARs, Part 1 at 00:01-0:30, Ex. D.²</p>	
<p>7. Puga pulled over but did not comply with the officers' commands to turn off the car and to roll his window down. Instead, Puga drove away, and a pursuit ensued. <i>Evidence:</i> Blackwood MVARs, Part 1 at 01:35-02:00, Ex. D.</p>	
<p>8. Kee and San Bernardino County Sheriff's Deputies Adams and Vaccari joined the pursuit that lasted over an hour, at high speeds through residential and commercial areas. <i>Evidence:</i> Kee MVARs, Part 1 at 02:50-38:50, Ex. B; Blackwood MVARs, Part 1 at 01:50-44:52, Ex. D; Blackwood MVARs, Part 2 at 00:01-28:17, Ex. E.</p>	

² Citations to the time frames are the counter using VLC Media Player.

1	State Defendants' Uncontroverted Facts and Supporting Evidence	Plaintiffs' Response to Cited Fact and Supporting Evidence
2	9. Puga's vehicle became disabled and	
3	stopped near the intersection of Peach	
4	and Catalpa Streets in Hesperia. It faced	
5	north on Peach Street.	
6	<i>Evidence:</i> Blackwood MVARs, Part 3 at	
7	08:30-10:00, Ex. F; Scene Photo, Ex. A.	
8	10. Blackwood and Kee stopped their	
9	patrol vehicles behind Puga's	
10	Expedition, with Kee's vehicle on the	
11	right of the Expedition and Blackwood's	
12	on the left.	
13	<i>Evidence:</i> Scene Photo, Ex. A;	
14	Blackwood MVARs, Part 3 at 09:00,	
15	Ex. F; Kee MVARs, Part 1 at 38:35-	
16	38:58, Ex. B.	
17	11. Kee exited his patrol vehicle and	
18	took a position on the driver's side of	
19	Blackwood's vehicle.	
20	<i>Evidence:</i> Kee MVARs, Part 1 at 39:00-	
21	39:15, Ex. B	
22	12. Kee was armed with his AR-15 rifle.	
23	<i>Evidence:</i> Kee Dep. 8:2-3, 53:22-23, Ex.	
24	O; Haag Report at 2, Ex. N.	
25	13. Rubalcava joined Kee on the driver's	
26	side of the patrol vehicle, and	
27	Blackwood moved to a position on the	
28	passenger side of his patrol vehicle,	
	standing behind the open passenger	
	door.	
	<i>Evidence:</i> Blackwood Dep. 42:10-19,	
	Ex. P.	
	14. Rubalcava had his Smith & Wesson	
	M&P pistol that fired .40 caliber	
	ammunition, and Blackwood was armed	
	with a AR-15 rifle.	
	<i>Evidence:</i> Blackwood Dep. 10:11-24,	
	Ex. P; Rubalcava Dep. 12:19-22, 89:4-7	
	Ex. Q; Haag Report at 2, Ex. N.	

State Defendants' Uncontroverted Facts and Supporting Evidence	Plaintiffs' Response to Cited Fact and Supporting Evidence
<p>15. Over the course of the next approximately 40 minutes, Kee, Rubalcava, and other officers repeatedly ordered Puga to exit the vehicle and to show them his hands, but Puga did not comply with their orders. <i>Evidence:</i> Kee MVARs, Part 1 at 38:50-1:04:20, Ex. A; Kee MVARs, Part 2 at 00:01-40:20, Ex. C; Blackwood MVARs, Part 3 at 09:30-37:30, Ex F; Blackwood MVARs, Part 4 at 00:01-35:40, Ex G;</p>	
<p>16. Kee also repeatedly attempted to de-escalate the situation and negotiate, converse, and build a rapport with Puga in an attempt to have Puga exit the vehicle and surrender, but without success. <i>Evidence:</i> Kee MVARs, Part 1 at 38:50-1:04:20, Ex. A; Kee MVARs, Part 2 at 00:01-40:20, Ex. C; Blackwood MVARs, Part 3 at 09:30-37:30, Ex F; Blackwood MVARs, Part 4 at 00:01-35:40, Ex G; Mangerino Dep. 42:5-16, Ex. S.</p>	
<p>17. During the course of the standoff, a female passenger exited the vehicle, and informed the officers of Puga's identity. <i>Evidence:</i> Kee MVARs, Part 1 at 44:40-45:15, Ex. B; Adams Dep. 13:7-25, Ex. R.</p>	
<p>18. Kee attempted to break the driver side windows with five rounds of bean bags, but was unsuccessful. <i>Evidence:</i> Blackwood MVARs, Part 3 at 14:45-15:03, Ex. F; Kee Dep. 21:1-11, Ex. O.</p>	

State Defendants' Uncontroverted Facts and Supporting Evidence	Plaintiffs' Response to Cited Fact and Supporting Evidence
<p>19. The Sheriff's Sergeant broke the back window of the Expedition, and, for approximately 30 minutes, shot several volleys of pepper balls into the cabin of the Expedition in an attempt to have Puga exit the vehicle. These efforts were unsuccessful, and the pepper balls appeared to have no effect on Puga. <i>Evidence:</i> Kee MVARs, Part 2 at 01:27-28:50, Ex. C; Adams Dep. 14:14-18:18, Ex. R.</p>	
<p>20. At approximately 3:40 a.m., Puga finally exited the Expedition with his hands above his head. Although he was shirtless, he faced north away from the officers and not displaying his waistband to the officers. <i>Evidence:</i> Blackwood MVARs, Part 4 at 33:40-37:49, Ex. G; Edward Mangerino Video at 00:01-00:42, Ex. H.</p>	
<p>21. Puga stood near the driver side door, raising and dropping his hands, for several minutes, then quickly walked to the front of the Expedition and pressed his torso against the hood of the car concealing the front of his waistband from the officers' view. <i>Evidence:</i> Blackwood MVARs, Part 4 at 37:50-42:50, Ex. G; Kee Dep. 80:18-81:11, Ex. O; Rubalcava Dep. 53:12-17, 80:11-19, Ex. Q; Blackwood Dep. 33:25-34:6, Ex. P.</p>	

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<p>22. When Puga moved to the front of the Expedition, Kee and Rubalcava moved to the southwest corner of the intersection, near the utility pole, such that they were almost in line with the front of the Expedition. <i>Evidence:</i> Erin Mangerino Video at 00:01-00:42, Ex. I; Kee Dep. 81:6-82:3, Ex. O; Rubalcava Dep. 79:14-80:10, 95:15-96:11, Ex. Q.</p>	
<p>23. Kee repeatedly asked Puga if he had a gun because Kee was unable to see the front of Puga's pants and waistband; Puga denied having a weapon. <i>Evidence:</i> Blackwood MVARs, Part 4 at 40:30-42:20, Ex. G.</p>	
<p>24. When Kee was approximately 20 to 30 feet from Puga, a few seconds after reaching the utility pole on the southwest corner of the intersection, Kee saw a handgun in Puga's waistband. <i>Evidence:</i> Kee Dep. 9:10-19, 28:23-29:5, Ex. O.</p>	
<p>25. As Kee continued to negotiate with Puga, telling him to keep his hands up as Kee and Rubalcava approached to handcuff him, Kee saw Puga's right hand going towards the gun, and several times yelled at Puga to not reach for the gun. <i>Evidence:</i> Blackwood MVARs, Part 4 at 42:05-42:29, Ex. G.</p>	
<p>26. Kee fired first when he saw Puga's hand go towards the gun. <i>Evidence:</i> Kee Dep. 9:16-10:11, Ex. O.</p>	

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<p>27. Puga pulled the gun from his waistband and fired it twice in Kee and Rubalcava's direction. Kee saw two muzzle flashes from Puga's gun while Kee was firing his first volley. <i>Evidence:</i> Kee Dep. 78:15-79:6, Ex. O; Gonzalez Video at 05:30-6:47, Ex. J; Erin Marino Video at 00:51-52, Ex. I; Annabelle Botten Interview at 02:00-02:50, Ex. L; Mangerino Dep. 35:2-36:17, 50:14-52:5, Ex. S; Goodson Dep. 26:10-27:3, 31:19-32:11, 49:11-22, 53:6-54:6, Ex. T; Adams Dep. 35:12-36:18, Ex. R; Blackwood Dep. 53:14-16, Ex. P.</p>	
<p>28. Kee fired two volleys of gunfire at Puga. The first volley occurred when Puga reached for the gun in his waistband. <i>Evidence:</i> Kee Dep. 9:7-10:16, Ex. O.</p>	
<p>29. After the first volley, Kee ran away from Puga, slid on to the ground, and repositioned himself in a prone position to avoid any further gunfire from Puga. <i>Evidence:</i> Kee Dep. 30:23-32:9, 83:3-21, Ex. O.</p>	
<p>30. Kee regained sight of Puga who was fleeing in a northwest direction past the intersection. Kee could see Puga's left ribcage area, and Puga had the gun in his left hand, pointing it back towards Kee's location. <i>Evidence:</i> Kee Dep. 83:16-84:3, Ex. O.</p>	

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<p>31. Kee shot at Puga to begin the second volley because Puga posed a continuing threat of immediate death or serious harm: Puga still had the gun; Puga had already fired upon Kee and Rubalcava based on the muzzle flashes Kee saw come from Puga's gun; Puga had used a gun in the earlier freeway shooting incident, indicating to Kee that Puga would not hesitate to use a gun; and Puga was now heading towards a house that could result in a hostage situation. Kee therefore fired his second volley of gunfire when Puga continued to run in the direction of the house. <i>Evidence:</i> Kee Dep. 82:10-85:7, Ex. O.</p>	
<p>32. Rubalcava fired two volleys at Puga—approximately five in the first volley, and five to eight in the second. <i>Evidence.</i> Rubalcava Dep. 14:3-11, Ex. Q.</p>	
<p>33. In the first volley, Rubalcava returned fire when Puga turned towards Rubalcava and fired the gun. Rubalcava shot at Puga's chest-abdomen area. <i>Evidence:</i> Rubalcava Dep. 17:13-18:20, 80:4-81:11, Ex. Q.</p>	
<p>34. Rubalcava was located on the dirt area near the left-front bumper area of Puga's vehicle when he shot the first volley. <i>Evidence:</i> Rubalcava Dep. 26:8-11, Ex. Q.</p>	

State Defendants' Uncontroverted Facts and Supporting Evidence	Plaintiffs' Response to Cited Fact and Supporting Evidence
<p>35. During the second volley, Rubalcava shot Puga as he was fleeing with the gun. Rubalcava still considered Puga an immediate threat because he still had the gun in his hand, and Puga was heading towards a residence, creating a risk of a hostage situation. <i>Evidence:</i> Rubalcava Dep. 18:18-19:6, 23:1-14, 86:23-87:8, Ex. Q.</p>	
<p>36. During the second volley, Rubalcava was standing behind the driver's side door of Blackwood's patrol vehicle, and shooting northbound on Peach Street. <i>Evidence:</i> Rubalcava Dep. 45:20-46:7, 51:3-8, Ex. Q.</p>	
<p>37. Rubalcava did not give Puga a verbal warning that lethal force would be used because there was no opportunity to do so. <i>Evidence:</i> Rubalcava Dep. 79:6-80:19, Ex. Q.</p>	
<p>38. Blackwood fired 20 rounds at Puga in two separate volleys. <i>Evidence:</i> Blackwood Dep. 10:11-21, 34:18-38:5, Ex. P.</p>	
<p>39. Blackwood saw the gun in Puga's hand when he fired the first volley. Blackwood aimed at Puga's torso and left side while Puga was hunched over, not yet running. <i>Evidence.</i> Blackwood Dep. 28:16-29:20, 53:14-55:7, Ex. P.</p>	

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<p>40. Blackwood paused his shooting when he saw Puga stumble. Blackwood fired the second volley when Puga started to run because Puga still had the gun which he could have fired at Blackwood or another officer, and Puga was running towards a house, which could have led to a hostage situation. <i>Evidence:</i> Blackwood Dep. 29:21-31:18, 53:14-55:7, Ex. P.</p>	
<p>41. After Puga went down to the ground, Rubalcava and a deputy handcuffed him and found Puga's gun tucked under his stomach where both his hands were also located. <i>Evidence:</i> Rubalcava Dep. 85:25-86:22, Ex. Q.</p>	
<p>42. Puga sustained ten gunshot wounds, but only the wound to the mid left back was fatal. <i>Evidence:</i> Jong Dep. 21:19-22:3, Ex. U.</p>	
<p>43. The wound to Puga's mid left back was caused by a .223 caliber bullet. <i>Evidence:</i> Haag Report at 2, Ex. N.</p>	

Dated: February 20, 2025

Respectfully submitted,

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